FREE THOUGHTS *of the* PENAL LAWS, TESTS, *and ſome Late* Printed Papers *touching Both.*

In a Letter from a Perſon of Quality.

SIR,

I HAVE carefully peruſed all your *Private Reaſons*, as well as the *Publick Prints* you ſent, to convince me of the preſent *Expediency*, if not *Neceſſity* of *Repealing the Penal Laws.*

As to the *Prints*, I cannot but ſtand amazed to ſee ſuch inveterate Malice, and open-fac'd ſcorn, as moſt of thoſe Papers carry in them, ſo confidently walk abroad, and that *ſent forth* by Men of pretended Sanctity, Orthodoxy, and pure Chriſtian Zeal; for ſuch the *Proteſtant Diſſenters* claim to be; and indeed I have known not a few of them, for the main, very exemplary in all thoſe qualities. It is prodigious to think that men ſo implacably (and upon rational grounds many of them) ſet againſt the Corruptions of *Rome*, men who hold it as firmly as any part of their Creed, That the Papal Power and Church is the great Antichriſt; who but as yeſterday were with one mouth exclaiming and writing againſt many of the Church of *England* as Apoſtates from the Doctrine of the Reformation, for otherwiſe interpreting the Propheſies touching Antichriſt; who ſince that, ſeeing the Conſtancy and Strength of the Church of *England*'s Teſtimonies againſt Popery, have profeſſed their ſorrow for their late overcharging her Clergy as too nearly allied to *Rome*, and Popiſhly affected; who have ſome of them confeſſed the Epiſcopal Church to be the great Bulwark againſt the Power of *Rome*: It is prodigious, I ſay, to think that thoſe men ſhould in a moment turn tail, and with ſuch Zeal and Indignation at the poor Church of *England*, offer themſelves unanimouſly to join with *Rome*, to pull down their forſaken Mother; profeſſing more liking of a *Publick Toleration* of the juſt-now abhorred *Popery*, than of the Engliſh Conſtitution, and thereby *verifying* what they have ſo long complained was falſly and injuriouſly laid to their charge, that *they were the People which would bring in Popery, if ever it came in.* The incredibility that theſe men ſhould act thus, makes me, I confeſs, rather believe that theſe Papers are generally *writ* by ſome *Crafty men* (of *another perſwaſion*), in their Writings, if not otherwiſe alſo, *perſonating Proteſtant Diſſenters*, and that perhaps amongſt other ends, to poſſeſs the world, there is, even in the beſt ſort of the Diſſenters, more Rancor and Uncharitableneſs than ever moſt of their Adverſaries conceived to be in any of them. This the *A-la-mode Smartneſs of the Stile*, the *Reliſh of the Arguments*, the *want of a Senſe of Religion*, and the *waving good Conſcience* throughout the whole management, together with ſeveral Marks, (which I will not now name) in moſt of the Papers, further induce me really to believe. Upon which belief I ſhall take no further notice of them, hoping all ſober Nonconformiſts are ſenſible how abominably themſelves are wronged by ſuch dealing; and if I am in an Error touching them, that they accepting my Charity, will pardon my miſtake; I chuſe to err on the beſt ſide; only this I muſt ſay of thoſe Prints which I have ſeen, Beſides Bitterneſs, and ſhameleſs Calumnies againſt the poor Church of *England*, there is little of moment in them for me to take notice of, or anſwer: There is *not one writ with any tolerable Temper*; nor can certainly the Bleſſing of Peace, or of any tolerable good ſucceſs on their ſide, attend ſuch virulent and unpeaceable Writings; *Dominus increpet.*

As to *your private Arguments*, they are (God be bleſſed) quite of another vein; and for *my own particular Sentiments*, I had thought you well knew much leſs Argument needed to have perſwaded me, how unmeet a Motive to Chriſtianity any kind of Compulſion is. I ever was of the mind, not only that *Faith ought not* to be *compelled*, but that *it cannot*. You know my conſtantly avowed Maxim, *It is not in mens powers to believe what they will*: Penalties may make a man a Hypocrite, they can never of themſelves make him a Believer or good Chriſtian.

Nor does it at all ſatisfie me, that ſome ſay, Men are only *forced* to the *means of Faith*, as to go to Church, to hear Sermons, and the like, but not to *Faith it ſelf*; for beſides, *Firſt*, That this Plea is falſe, (to Swear, Abjure, take the Sacrament, *&c.* are the moſt ſolemn kind of Profeſſions of Faith aſſignable, and not at all means to convince a man of Truth): Beſides this, I ſay, *Secondly*, Even to *come to Church* it ſelf (that is, to be preſent, and by Preſence ſeeming to be communicable in the Liturgy) is what many judg in their Conſcience unlawful, or are not ſatisfied of the Right thereof; it is therefore contrary to their *Faith*, or a kind of *act*, *profeſſing to believe what is not believed*: The caſe is the ſame, if for *Faith* I had put *Conſcience*; for Conſcience, as it cannot be ſuppoſed ſubject to the attempts of force, being nothing but an inward ſenſe or perſwaſion of the lawfulneſs or unlawfulneſs of Human Actions, differs little or nothing from Faith, in the acceptation wherein I have above uſed the name: And ſo in truth, neither *can Conſcience be forced*, tho a *man* may be *forced* to act *againſt his Conſcience*; which as it is a *ſin* of the moſt hainous nature in him *who does it*, ſo do I not ſee how we can excuſe him from the breach of the *Law of Charity*, who *compels* it.

Nor are generally the *Authors* or *Maintainers of Penal Laws*, I ſuppoſe, ignorant of this: for all ſuch Laws allow unto men the *Option of Suffering*, or the *choice of the Penalty*, which the Law inflicts, in caſe of non-performance of its poſitive part; by which choice men may preſerve their Conſciences inviolate: And foraſmuch as there is and will be to the end of the world, different Judgments amongſt men, that is, all mens Conſciences touching the ſeveral Rites or Modes of Worſhip, and other controverted Points in Religion, will never agree: Whether therefore the *Civil Government*, and *common Peace* can be *preſerved*, by *leaving all ſorts of men* to the *free exerciſe of their Conſcience*, without ſome *Laws to reſtrain ſome of them* (which Laws if *effectual* to the aforeſaid Ends of Peace and Government, muſt be *Penal*) is the *great Queſtion*, upon the reſolving of which, the having or not having Penal Laws, muſt be determined.

And that which *encreaſeth* the *difficulty* of *reſolving* this Queſtion, as ſome would have it reſolved, is, That *Faith and Conſcience* ſignifying things *inviſible*, and not to be known but by the Searcher of all hearts, it is *impoſſible* always to *diſcern between them*, and the *pretences of them*. Now Factious, Turbulent, and Wicked Men, tho they may be, and commonly are Atheiſts, having indeed no Faith or Conſcience, yet they never will want moſt ſpecious Pretences of both, and thoſe ſuitable and accommodate to their own ends: From whence it follows, that tho it ſhould be *poſſible* to *preſerve Peace and Government*, allowing *Liberty* to the Exerciſe of *Conſcience truly ſo called*, yet it will be utterly impoſſible to preſerve either Peace or Government, allowing Liberty to all pretences of Conſcience, for this is to allow Liberty to Faction and Villany: And by reaſon of the aforeſaid *inviſibility* of Conſcience, it will be alſo *impoſſible* to allow *perfect Liberty of Conſcience*, except we *together allow* Liberty to the *pretences of Conſcience*.

From hence it ſeems neceſſarily concluſible, that they who will *conſult* the *publick ſafety*, and the *Intereſts of Government* (even *abſtracted from the intereſt of Religion*) muſt *allow ſome reſtraint* upon the exerciſe of Conſcience, and conſequently *ſome ſtanding Penal Laws*.

But

But to take in a little the *Intereſts of Religion*; whether a *Chriſtian Prince*, allowing ſuch a *qualified Liberty* to the Exerciſe of Conſcience, as may conſiſt with the ſecurity of Government, ought to allow men *Liberty* to *have no Conſcience*, or to be of no *Religion*, or even to be of ſuch an one, as does *overthrow the Common Chriſtianity*, will be *another Queſtion* worthy of Conſideration; which yet I think every Chriſtian man will reſolve in the *Negative*. Diſtinctly, I mean, that tho we grant men are not to be compelled to the exerciſe of any one Religion, yet may they *not be allowed* openly to *profeſs Atheiſm* (that is, *no Conſcience*) nor to *Blaſpheme*, and in the ſame breath allow Religion to be true, and yet endeavour to ſcoff it out of the World; nor yet to *Profeſs* or *Practice*, that is, to propagate *ſuch a Religion*, which is *apparently inconſiſtent* with the *Common Chriſtianity*, as *Judaiſm*, *Mahometaniſm*, *Paganiſm*; and if there be any other like them, as I think *Muggletoniſm*, and ſomewhat a kin to it.

The ſum then of what we have ſaid, is this, That ſome *Penal Laws* ought to ſtand againſt *Irreligion*, *Blaſphemy*, and ſuch *apparently ill Religions*, as theſe mentioned.

Again, If there be any *Sect of Chriſtian* Religion (*at large* ſo called) the *Fundamental* and *Characteriſtical Principle* of which *conſiſts* not with the *Security of Civil Government*; ſuch as I think, is the Doctrine eſſential to the Fifth-Monarchy-men, *of the Reign of King Jeſus, and his Saints alone*, which is alſo the Opinion of ſeveral of the *Anabaptiſts*, and was of many of the *Quakers* in the year 1660. and will be ſtruck for, whenever theſe Sects are powerful enough; and how deſperately, *Venner* with his forty men againſt the Train'dbands of the City, and His Majeſties Life-Guard, will be an eternal Inſtance. Such Sects ought not to be allowed the free Exerciſe of their Conſcience (for that, as before ſaid, is the propagating their Religion;) and therefore, againſt *theſe Sects*, *Penal Laws ought to ſtand*, at leaſt in ſome meaſure, for the reſtraint of their free Exerciſe of their Conſcience, as they will pretend, or call it: I mean for the reſtraint of their *aſſembling to hold forth*, and propagate theſe accurſed *deſtructive Doctrines*.

And now we are come to the Point that has long pinched, and perhaps ſtill does; Whether the *Religion* of *Thorow-papiſts* (as ſome diſtinguiſh them) that is of thoſe, who *hold the Popes full Supremacy over Princes*, even within their own Dominions, be any more *conſiſtent* with the Security of *Civil Government*, *generally taken*, (that is, let the Prince be of what Religion he ſhall) than that of the *Millenaries*, or of any other like ſort; and conſequently, whether Penal Laws ought not to ſtand againſt ſuch Papiſts or Catholicks, as they will call themſelves?

It ſeems to me, that thoſe of them who *think their Religion* well *conſiſtent* with Civil Government in general (be the Prince of whatſoever Chriſtian profeſſion he ſhall be, ſuppoſe a Proteſtant;) thoſe I ſay, ſhould *not be againſt*, or contend for the laying aſide, or not having an *Oath of Supremacy*, *as to Temporals* at leaſt; for whoſoever appears againſt ſuch an Oath, manifeſtly profeſſes thereby his Religion will not ſuffer him to be obedient even in Temporals, to that Governor, whoſe Supremacy in Temporals he avows he cannot, or which is the ſame, refuſes to acknowledg.

It is ſure, both the Body of the * *Canon Law* aſſerts, and ſome † *Popes* have *expreſly decreed the Supremacy of the Chair* of St. *Peter*, even in *Temporals*, to be of *Divine right* and *matter of Faith*; ſo as that *to believe the Contrary is Hereſy and damnable Sin*. And whatever ſome do believe or declare, (as I have heard ſome of them ſwear, that ſhould their Father-Confeſſor, or the Pope himſelf, command them to take Arms againſt their King, they would not obey;) yet it is alſo ſure, that many *Roman* Catholicks, and perhaps more Orders of their Religious than one, do to this day ſo believe; and tho many of their Confeſſors may not preſs the Popes Supremacy in Temporals on the Conſciences of their Devotes, yet no doubt others, except they are forſworn, do it.

* Diſtinct. 22. c. Omnes ſive. Ubi etiam vide gloſſam. Et Diſt. 96. Duo ſunt. Et 1 Qu. 4 Quia Præſulatus.

† Nicolaus, Gelaſius, Leo IV. ubi ſupra,

* XV Qu 6. c. Alius item. Et c. Nos Sanctorum. Et c. Juratos milites

† Gelasius, Zacharias, Gregor. VII. Urbanus II. locis proximè jam citatis, aliiq;.

Further, the said * *Canon Law* allows the Pope may *Absolve Subjects and Soldiers* from their *Oath of Allegiance*, and *Duty* to their *Kings* or *Commanders*; and several † *Popes* have decreed as much, otherwise it could not have come into the Body of the Canon Law; nay, they have actually done it. Wherefore it would seem, tho not for Religions sake in general, yet *for the sake of Civil Government, Penal Laws ught to stand against such a strain of Religion* also; at least, against the free Exercise of it. Whether this will conclude *Jesuits*, and those whom some call *Jesuited Papists*, themselves best know; I will not now insist on their *fourth Vow*.

The Result of all is, that an *absolute Repeal of all Penal Laws* in the case of *Religion*, or even of such Penal Laws which affect either *Catholicks*, or *pretended Protestant Dissenters*, taking Catholicks and Dissenters for all that call themselves so, is *not safe for the Government*, *nor agreeable to Christian Conscience*; but a *Qualification of such Laws*, or some *explanatory and mitigative Act*, which might *secure all peaceable conscientious* men of *whatsoever Perswasion* (those Antichristian and Turbulent ones before mentioned, being excepted) in their *Estates*, *Lives and Liberties*, while they *Worship God according to their Conscience*, were *to be desired*, and is to be *endeavoured* by all who would approve themselves genuinely *Christians*. And I am not without hopes, that those who declare themselves so much for the Repeal of the Penal Laws, will acknowledg this to be their Sense.

But as I have hitherto endeavoured to be *in general*, just both to the *King*, *Religion*, *and all Parties* concern'd in my impartial considering and stating the case of all, in reference to the Liberty desired; So I must be yet more *in particular* just to those who are in *Possession* of an *Establishment* by Virtue of the Laws; and consider while they concede so much, what is fit to be conceded and assured to them by the indulged Parties.

First then, Seeing it is *expected* of the *Church of England*, that she *consent* to the *Repealing* all such Penal Laws which affect the Estates, Lives or Liberties of such *Roman* Catholicks and Dissenters as before specified; therefore it must needs be judged but *fit* and *equal*, that the *Church of* Rome *revoke* all *such Laws*, which alike affect all *peaceable Protestants*. Those who pretend that Church has none such, may be excused if they speak it out of Ignorance; but they are unpardonable who go about to impose so impudent a falshood upon the World. The *Church of Rome* has for many Ages not only had *Sanguinary* and *Penal Laws*; but also *bound*, and daily does bind *by the most sacred Oaths*, and under the severest Penalties, most of her Sons, Sacred as well as Secular, to the *Execution* of such Laws, to their utmost Power; Behold some of those Laws, and the legal Method to be proceeded in against all, who own not the Faith of the Church of *Rome*.

'We Excommunicate and Anathematize every Heresy which sets up it self against 'this * holy Faith which we have above expounded, condemning all and singular 'Hereticks, by what Names soever they are reckoned, having indeed their Faces different ways, but their Tails tied together, because as to matter of falshood they 'agree in the same thing.

* Of which Faith, as appears by the first Canon of the *Lateran Council*, out of whose Decree this Chapter is transcribed into the Body of the Canon Law (the Chapter being indeed the third Canon of the said *Lateran* Council under *Innocent* III.) of which Faith, I say, two Points amongst others were *Transubstantiation*, and *that there is no Salvation out of the* Roman *Church*.

'And being thus condemned, let them be left to the present Secular Power, and to 'their Bailiffs to be punished ‖ with due Severity or Execution; Clergy-men being 'first degraded from their Orders, so that the Goods of such condemned Persons, if

‖ Animadversione debita.

they

'they be Lay-men, be confiſcate; but if Clergy-men, be applied to the Churches whence they received Stipends.

'And as to thoſe who ſhall be found * challengeable only by Suſpicion, except according to the nature of the Suſpicion, and quality of the Perſon, they ſhall clear their Innocency by a proportionable purgation, let them alſo be ſtruck with the Sword of Excommunication [or, of an *Anathema*] and let them be avoided by all Perſons till they give condign Satisfaction: So that if they continue excommunicate one whole year, they be from thenceforth condemned as Hereticks.

* Solâ ſuſpicione notabiles.

'Further, Let the *Secular Powers* of *whatſoever degree* be *admoniſhed* and *induced*, and if need be, *compelled* by *Eccleſiaſtical Cenſures*, that even as they deſire to be reputed and accounted faithful, ſo they take publickly an Oath for the defence of the Faith, that they will endeavour † faithfully [or in good earneſt] according to their power, to *exterminate out of the Lands of their Juriſdiction* all ſuch as are pronounced *Hereticks* by the Church: So that from henceforth, *whenſoever any one ſhall be aſſumed into Power Spiritual or Temporal*, he be *bound firmly to ſwear to this Article*.

† Bona fidè.

'And in caſe any *Temporal Lord*, being required and admoniſhed by the Church, *ſhall neglect* to purge his Countrey from Heretical Pravity, let him be by the Metropolitan and Comprovincial Biſhop *innodated* in the bond of *Excommunication*. And if he ſhall neglect to ſatisfy within a year, let them ſignify the ſame to the Pope, that he, from that time forth, may *pronounce his Subjects abſolved* from their *Allegiance*, and may * *ſet forth his Country* to be *ſeized by Catholicks*, who, having exterminated the Hereticks thence, may poſſeſs it without contradiction, and keep it in the purity of the Faith, with a ſaving to the right of the principal Lord: provided *he have put no obſtacle* in this matter, nor given *any other hindrance*: The ſame Law nevertheleſs being obſerved as to them who have no Principal Lords.

* Terram exponat Catholicis occupandam.

'Further, Let all Catholicks, who, having taken upon them the badge of the Croſs, ſhall have applied themſelves to the exterminating Hereticks, injoy the ſame Indulgence, and be poſſeſſed of the ſame Privileges as have been granted to them who went to ſuccour the Holy Land.

'Moreover we decree, That all *Adherers*, *Receivers*, *Defenders and Cheriſhers of Hereticks* lie under the *ſame Excommunication*; firmly ordaining, that after any ſuch *Excommunicate Perſon* ſhall have, one whole year, neglected to make ſatisfaction, he from that time become *in Law infamous*, and be not *admitted to any publick Office*, *Councils*, nor to *chuſe any others*, nor ſo much as to *give his Teſtimony* in any Caſe; that he alſo be *inteſtable* [or have no liberty or power to make a Will] nor be allowed to *come in ſucceſſion* to any *Inheritance*. Furthermore, that *none be compelled to anſwer him* in any *Suit* or Buſineſs, but that *he be compelled to anſwer all* others. And in caſe perchance he ſhould *formerly* have been a *Judge*, his *Sentence ſhall have no ſtrength*, nor ſhall any *Cauſes* be brought to his *Audience*. Or if he were an *Advocate*, his *Pleading* ſhall be *no-wiſe admitted*. If a Publick *Notary*, *all Inſtruments* made by him ſhall be of *no force*, but *damn'd with their Author*: The ſame alſo we command to be obſerved in like caſes. If he be a *Clergy-man*, let him be *depoſed* from all *Office and Benefice*. And if any ſhall not forbear to avoid ſuch Perſons, after they have been pronounced Excommunicate by the Church, let them alſo by Excommunication be compelled to fit ſatisfaction. Further, let *no Clerk adminiſter the Church Sacraments to ſuch Peſtilent Perſons*, let them not preſume to give them *Chriſtian Burial*, nor let them partake of any *Alms or Oblations*: or in caſe they ſhall, let them [that is, ſuch Clerks ſo offending] be deprived of their Office; to which let them never be reſtored, without a ſpecial Indulgence from the Apoſtolical See. In like manner, let all *Regulars* obſerve ſo

None of our late Teſts match the Severity of this Law.

'to

'to do: upon whom, otherwiſe, let this Penalty reſt, that their Privileges be void 'within that Dioceſe wherein they have preſumed to commit ſuch Exceſſes.

Thus far the *Lateran Council* (under Pope *Innocent the Third*, *An. Dom.* 1215.) tranſ-
‡ Extra. De Hæreticis Cap. Excommunicamus itaque, &c. ſcribed into the † body of the Canon Law; which, with the Church of *Rome*, is above all other [at leaſt Humane] Laws, and it were to be wiſhed, that it were not too often obſerved above God's Law alſo.

But though the Council ſtopt here; after another ſhort Chapter the Decretals go on
* Cap Excommunicamus, &c. again thus under *Gregory* IX. '* We Excommunicate and Anathematize all Here-'ticks, the *Cathari* [or Puritans] the *Patarens*, the Poor of *Lions* [and others there-'mentioned, now perhaps unknown] and all others, by whatſoever names they are 'reckoned, having Faces looking different ways, *&c. as before.*

'Being thus condemned, let them be left to the Secular Judgment to be puniſhed 'with due ſeverity, *&c. as before.*

'But if any of the aforementioned Heretics, after they are convicted, will not re-'turn to perform condign Penance, let them be kept *in perpetual impriſonment*. And 'as to them who adhere to their Errors, we adjudge them alike Heretics.

Cap. Abſolutos ſe noverint. The next Chapter is ſhort, but Subſtantial. 'Let them know that they are abſolved 'from all Debt of Fidelity, Dominion, or Obedience, whoſoever were bound by any 'Compact, howſoever ſtrong, to any Perſons fallen into Hereſie.

More of like nature might be eaſily collected out of the body of the Canon-Law. Now that by *Heretics* thoſe Laws do *not underſtand* meerly *Manichees*, *Valentinians*, *Arrians*, or ſome ſuch groſs People, but univerſally *all ſuch who ſubmit not to the* Roman *Faith*, or even to the *Supremacy of the* Roman *Biſhop*, is, beſides what was above-noted, plain from another Text of the ſaid Canon Law. 'He [that is Chriſt alone] hath founded
Diſtinct. XXII Omnes. 'this [the *Roman*] Church upon a Rock, who committed to bleſſed *Peter*, the Keeper 'of the Keys of Eternal Life, the Rights both of the Earthly and Heavenly Empire— 'So that whoſoever endeavours to take away from the *Roman* Church the Privilege 'given her by the Supreme Head of all Churches, ſuch Perſon without doubt is fallen 'into Hereſie; and whereas others [who violate the Privileges of other Churches] 'are to be called unjuſt, ſuch Perſon is to be ſtiled an Heretic.

As to *matter of fact*, how theſe Laws have been Executed, and in ſome Countries how they ſtill are, is diſagreeable to my Deſign of publick accord to inſiſt: only be-
Bulla Cænæ. cauſe we are conſidering of terms of accord, I muſt not wave that point of matter of fact, that *all Proteſtants are excommunicated afreſh* by the *Pope every Maundy Thurſday*, and that every Prelate, which is conſecrated, at his Conſecration, amongſt other
Vide Pontifical. Roman. things, ſevere enough againſt us, ſwears in theſe words, *Hereticos, Schiſmaticos & Rebelles eidem Domino noſtro vel Succeſſoribus prædictis, pro poſſe, perſequar & impugnabo.* That is, 'I will, according to my power, perſecute and impugn all Hereticks, Schiſ-'maticks, or thoſe who rebel againſt our Lord [the Pope] and his Succeſſors aforeſaid.

I will not here meddle with the Doctrine of many *Caſuiſts*, who tell us ordinarily, that all Heretics being *de jure* Excommunicate, any Catholic may ſafely kill them; Nor that in all Catholic Kingdoms *de Conſuetudine*, Burning alive is the proper Legal Death for Heretics: for which laſt, it were to be wiſht, there were not yet Statute-Laws in force, in ſome of his Majeſty's Dominions. I rub not, I ſay, on theſe Sores, but content my ſelf to have mentioned the general Penal Laws above recited, which are ſufficient to prove the *Romaniſts* have ſuch Laws.

And *theſe* being the *Laws*, and *ſuch* the preſent *obligation* generally to *all Catholics in power* (whether Eccleſiaſtical or Secular) to obſerve them, it is reaſonable, that *before Penal Laws* againſt all men of *this Religion* be *Repealed*, *they of the Religion* obtain

from

rom his Holineſs ſome *Repeal* of *theſe and the like Laws*; at leaſt a *Bull*, *exempting all the Proteſtants of* England, Scotland *and* Ireland, from being comprehended in the number of ſuch *Heretics*, who are thus to ſuffer; and together *abſolving* all Perſons, who have taken *Oaths* for *Exterminating Heretics*, from any obligation to perform thoſe Oaths as to the Proteſtants of theſe Countries; For till then, we have juſt ſo much Reaſon to hope for ſecurity from ſuch Catholics, as we have aſſurance that they will ever forſwear themſelves, or all their days live in wilful Perjury.

There is *another Law* amongſt the *Roman* Catholics, which tho not Penal to us, it is to be feared may be one day moſt dreadfully Penal to as many of them as obſerve it, and which ſeems to oblige them to perſecute us: I will call it the *Law of uncharitableneſs*, the revoking of which alſo, it ſeems fit, ſhould be made a condition of Repealing our Penal Laws: The Law I mean is that, whereby every one, who will be of that Church, is required to ſwear to the *Tridentine* Creed, in the cloſe of which Oath he avows, *No one can be ſaved out of the belief of that the preſent* Roman *Catholic Faith.* By this they plainly damn four fifth parts of all Chriſtendom. I know there are ſome Gentlemen of that Communion, who are more merciful to us, and the better Catholicks are they for it; God bleſs them, and encreaſe the number of them: But I as well know, there are others ſo ſtifly hold to this, that they frequently, and even in their ordinary converſation, as well as in their writings, uſe it as an Argument to perſwade men of our Church to come over to their Religion. As to theſe, I crave leave to ſay only this one thing, That men can repoſe very little confidence in their kindneſs, who prejudging to God's judgment, have already damn'd them beforehand: Wherefore I conceive they who would have any kind offices paſs between us and our *Roman* Catholic Countreymen, or intend we ſhould live together as Chriſtians, ought to abandon this rigour, and if poſſible to procure from the Head of their Church an abatement of it, as to the Proteſtants of theſe Countries at leaſtwiſe.

This will appear yet the more reaſonable, if we conſider of *what Communion* they were that firſt *introduced* into theſe parts of the World *Penal or Sanguinary Laws* in cauſe of Religion. The *Proteſtants* in this matter can only be blamed for *following an ill Example*, which alſo they have induſtriouſly not come up to. They found Sanguinary Laws; and the ſevereſt of them, in *England*, they have repealed: If any other than thoſe Penal-Laws were made, (as it is not to be denied there were) it was rather upon the ſcore of the *State*, than of *Religion*. A *Sanguinary Law* made particularly *againſt any ſort of our Non-Conformiſts*, I never yet knew any: Nor againſt thoſe of *Rome purely* for *Conſcience* ſake. But the Laws above mentioned out of the *Roman* Canon-Law are Purely upon the ſcore of Conſcience; and even where they extend not to Blood, they are, as we ſee, much ſeverer than any of our Laws or Teſts againſt them. In a word all perſons who will be juſt, muſt allow to others the Liberty and Security that they deſire ſhould be granted to themſelves, which is the *Height* of this our *firſt demand. I præ, ſequar*: Let thoſe who were firſt in the guilt, firſt amend; certainly Proteſtants will meet them in kindneſs.

Secondly, Inaſmuch as they of the *Eſtabliſht Church* do not in the leaſt *ſuſpect the truth of their Religion* (all the Writings of their *Roman* Adverſaries diſcovering their *Roman* Faith, where differing from the Proteſtants, inſtead of a Rock, to be built only on Air) and inaſmuch as it cannot be juſtly expected, that meerly to gratify our Adverſaries, we ſhould at once *betray* both *our Religion* and *our Intereſt*; it is but *juſt*, that *together* with ſuch *Statute* as ſhall *take away the Penal Laws* in Conteſt, there paſs another for *ſecurity of the National Religion*, that it ſhall not be *altered*; and of the *regular conformable Clergy* and *their Succeſſors*, that their *Rights* ſhall not be *invaded*. It is told us indeed, we have His *Majeſties Royal word* many times *repeated*. I humbly return,

that

that I know no *true Church-of*-England-*Man* who does not *rely* upon His Majesties Word, during his Reign (which God long continue) for the security of our Church. But *Succession is a long Train*; and *Laws*, if standing, may keep *posterity in peace*, when *Promises* with their *Authors* are *fain asleep*. He is not just to the present Age, who is not to his power just to Posterity, however remote. It is therefore reasonable, fit and necessary that such a Statute, as is desired, pass.

As to what you conclude with, That the *Clergy of the Church of* England are very *ungrateful* to His Majesty for his repeated Promises of Protection, and together *uncivil* to him, in not *fully acquiescing* in his Royal word so often given for the security of their Religion, Rights and Privileges; and *not offering to concur*, according to his desire, in the Repeal of the Penal Laws: I take the liberty to *aver*, that I know not *one Clergy-man* of that Church who has not *solemnly under his hand given* His Majesty *thanks* for those Promises. All the *Addresses* we made in the year of His Majesties accession to the Crown, were so many *humble Testimonies of our Gratitude*, and *Zealous Vows of our Loyalty*; and if *Addresses of meer Thanks*, *and Vows of Loyalty* would be accepted, there is not an English Bishop, Priest, or Parish in the Three Kingdoms, I believe, but would present them most gladly. But who sees not the *Declaration*, for which 'tis expected we return Thanks, consists of *more parts* than that *private Subjects* can *justify* their approbation of the whole? And as to the sacred Veneration we have for His Majesties word, I have spoken already.

Give me leave for a Conclusion to tell you a *new* and very *true Story*. A Friend and Neighbour of mine, being very intimate with an eminent person of a certain Religious Order, and knowing well the Principles of that Order, asked him in a good hour, what they meant by this furious driving on an Universal and Unlimited Toleration? The answer he received was, that they were now *Scaffolding*. My Friend understanding him not, desired he would explain himself; but could get no more out of him than this, that they were *yet but Scaffolding*. After further importunity for a more explicit resolution, the good Religious person answered, he would not tell him more; but bid him go to such a person (a Master-Bricklayer, or Mason, be-like) and ask him what *Scaffolding* was? He went to the Man assigned, and received this Answer, *Scaffolding* is *setting up Poles*, and *Boards*, and such *rough stuff*, which *serve* us to *build*, and when we have built, we *throw them aside*.

The Story I avow to be true, and leave the application of it to all those parties whom it concerns; very well remembring, that *Scaffolds* are *ordinarily made* for *more uses than one*: However according to the Interpretation given, the Toleration now promoted seems not by its Agitators designed to stand long.

But to make an end: On what terms, I conceive the Penal-Laws in question may be Repealed with justice to the present and succeeding Ages, you may easily collect out of this long and hasty scribble; and so you have my *Free Thoughts* in this so hotly agitated Question. God preserve the King, and grant we may live to see the days, wherein *all Laws Penal* to *Peaceable*, *Conscientious* men, and together all *uncharitable Laws*, on *all sides*, may be for ever abrogated.

I am your Humble Servant

Printed in the Year 1688.

FREE THOUGHTS *of the* PENAL LAWS, TESTS, *and ſome Late* Printed Papers *touching Both.*

In a Letter from a Perſon of Quality.

SIR,

I HAVE carefully peruſed all your *Private Reaſons*, as well as the *Publick Prints* you ſent, to convince me of the preſent *Expediency*, if not *Neceſſity* of *Repealing the Penal Laws.*

As to the *Prints*, I cannot but ſtand amazed to ſee ſuch inveterate Malice, and open-fac'd ſcorn, as moſt of thoſe Papers carry in them, ſo confidently walk abroad, and that *ſent forth* by Men of pretended Sanctity, Orthodoxy, and pure Chriſtian Zeal; for ſuch the *Proteſtant Diſſenters* claim to be; and indeed I have known not a few of them, for the main, very exemplary in all thoſe qualities. It is prodigious to think that men ſo implacably (and upon rational grounds many of them) ſet againſt the Corruptions of *Rome*, men who hold it as firmly as any part of their Creed, That the Papal Power and Church is the great Antichriſt; who but as yeſterday were with one mouth exclaiming and writing againſt many of the Church of *England* as Apoſtates from the Doctrine of the Reformation, for otherwiſe interpreting the Propheſies touching Antichriſt; who ſince that, ſeeing the Conſtancy and Strength of the Church of *England*'s Teſtimonies againſt Popery, have profeſſed their ſorrow for their late overcharging her Clergy as too nearly allied to *Rome*, and Popiſhly affected; who have ſome of them confeſſed the Epiſcopal Church to be the great Bulwark againſt the Power of *Rome*: It is prodigious, I ſay, to think that thoſe men ſhould in a moment turn tail, and with ſuch Zeal and Indignation at the poor Church of *England*, offer themſelves unanimouſly to join with *Rome*, to pull down their forſaken Mother; profeſſing more liking of a *Publick Toleration* of the juſt-now abhorred *Popery*, than of the Engliſh Conſtitution, and thereby *verifying* what they have ſo long complained was falſly and injuriouſly laid to their charge, that *they were the People which would bring in Popery, if ever it came in.* The incredibility that theſe men ſhould act thus, makes me, I confeſs, rather believe that theſe Papers are generally *writ* by ſome *Crafty men* (of *another perſwaſion*), in their Writings, if not otherwiſe alſo, *perſonating Proteſtant Diſſenters*, and that perhaps amongſt other ends, to poſſeſs the world, there is, even in the beſt ſort of the Diſſenters, more Rancor and Uncharitableneſs than ever moſt of their Adverſaries [illegible] of them. But the *A-la-mode Smartneſs of the Stile*, the *Reliſh of the Arguments*, the *want of a Senſe of Religion*, and the *waving good Conſcience* throughout the whole management, together with ſeveral Marks, (which I will not now name) in moſt of the Papers, further induce me really to believe. Upon which belief I ſhall take no further notice of them, hoping all ſober Nonconformiſts are ſenſible how abominably themſelves are wronged by ſuch dealing; and if I am in an Error touching them, that they accepting my Charity, will pardon my miſtake; I chuſe to err on the beſt ſide; only this I muſt ſay of thoſe Prints which I have ſeen, Beſides Bitterneſs, and ſhameleſs Calumnies againſt the poor Church of *England*, there is little of moment in them for me to take notice of, or anſwer: There is *not one writ with any tolerable Temper*; nor can certainly the Bleſſing of Peace, or of any tolerable good ſucceſs on their ſide, attend ſuch virulent and unpeaceable Writings; *Dominus increpet.*

As to *your private Arguments*, they are (God be bleſſed) quite of another vein ; and for *my own particular Sentiments*, I had thought you well knew much leſs Argument needed to have perſwaded me, how unmeet a Motive to Chriſtianity any kind of Compulſion is. I ever was of the mind, not only that *Faith ought not* to be *compelled*, but that *it cannot*. You know my conſtantly avowed Maxim, *It is not in mens powers to believe what they will* : Penalties may make a man a Hypocrite, they can never of themſelves make him a Believer or good Chriſtian.

Nor does it at all ſatisfie me, that ſome ſay, Men are only *forced* to the *means of Faith*, as to go to Church, to hear Sermons, and the like, but not to *Faith it ſelf* ; for beſides, *Firſt*, That this Plea is falſe, (to Swear, Abjure, take the Sacrament, *&c.* are the moſt ſolemn kind of Profeſſions of Faith aſſignable, and not at all means to convince a man of Truth) : Beſides this, I ſay, *Secondly*, Even to *come to Church* it ſelf (that is, to be preſent, and by Preſence ſeeming to be communicable in the Liturgy) is what many judg in their Conſcience unlawful, or are not ſatisfied of the Right thereof ; it is therefore contrary to their *Faith*, or a kind of *act*, *profeſſing to believe what is not believed* : The caſe is the ſame, if for *Faith* I had ſaid *Conſcience* ; for Conſcience, as it cannot be ſuppoſed ſubject to the attempts of force, being nothing but an inward ſenſe or perſwaſion of the lawfulneſs or unlawfulneſs of Human Actions, differs little or nothing from Faith, in the acceptation wherein I have above uſed the name : And ſo in truth, neither *can Conſcience be forced*, tho a *man* may be *forced* to act *againſt his Conſcience* ; which as it is a *ſin* of the moſt hainous nature in him *who does it*, ſo do I not ſee how we can excuſe him from the breach of the *Law of Charity*, who *compels* it.

Nor are generally the *Authors* or *Maintainers of Penal Laws*, I ſuppoſe, ignorant of this : for all ſuch Laws allow unto men the *Option of Suffering*, or the *choice of the Penalty*, which the Law inflicts, in caſe of non-performance of its poſitive part ; by which choice men may preſerve their Conſciences inviolate : And foraſmuch as there is and will be to the end of the world, different Judgments amongſt men, that is, all mens Conſciences touching the ſeveral Rites or Modes of Worſhip, and other controverted Points in Religion, will never agree : Whether therefore the *Civil Government*, and *common Peace* can be *preſerved*, by *leaving all ſorts of men* to the *free exerciſe of their Conſcience*, without ſome *Laws to reſtrain ſome of them* (which Laws if *effectual* to the aforeſaid Ends of Peace and Government, muſt be *Penal*) is the *great Queſtion*, upon the reſolving of which, the having or not having Penal Laws, muſt be determined.

And that which *encreaſeth* the *difficulty* of *reſolving* this Queſtion, as ſome would have it reſolved, is, That *Faith and Conſcience* ſignifying things *inviſible*, and not to be known but by the Searcher of all hearts, it is *impoſſible* always to *diſcern between them*, and the pretences of Seditious, Turbulent, and Wicked Men, tho they may be, and commonly are Atheiſts, having indeed no Faith or Conſcience, yet they never will want moſt ſpecious Pretences of both, and thoſe ſuitable and accommodate to their own ends : From whence it follows, that tho it ſhould be *poſſible* to *preſerve Peace and Government*, allowing *Liberty* to the Exerciſe of *Conſcience truly ſo called*, yet it will be utterly impoſſible to preſerve either Peace or Government, allowing Liberty to all pretences of Conſcience, for this is to allow Liberty to Faction and Villany : And by reaſon of the aforeſaid *inviſibility* of Conſcience, it will be alſo *impoſſible* to allow *perfect Liberty of Conſcience*, except we *together allow* Liberty to the *pretences of Conſcience*.

From hence it ſeems neceſſarily concluſible, that they who will *conſult* the *publick ſafety*, and the *Intereſts of Government* (even *abſtracted from the intereſt of Religion*) muſt *allow ſome reſtraint* upon the exerciſe of Conſcience, and conſequently *ſome ſtanding Penal Laws*.

But

But to take in a little the *Intereſts of Religion*; whether a *Chriſtian Prince*, allowing ſuch a *qualified Liberty* to the Exerciſe of Conſcience, as may conſiſt with the ſecurity of Government, ought to allow men *Liberty to have no Conſcience*, or to be of no *Religion*, or even to be of ſuch an one, as does *overthrow the Common Chriſtianity*, will be *another Queſtion* worthy of Conſideration; which yet I think every Chriſtian man will reſolve in the *Negative*. Diſtinctly, I mean, that tho we grant men are not to be compelled to the exerciſe of any one Religion, yet may they *not be allowed* openly to *profeſs Atheiſm* (that is, *no Conſcience*) nor to *Blaſpheme*, and in the ſame breath allow Religion to be true, and yet endeavour to ſcoff it out of the World; nor yet to *Profeſs* or *Practice*, that is, to propagate *ſuch a Religion*, which is *apparently inconſiſtent* with the *Common Chriſtianity*, as *Judaiſm*, *Mahometaniſm*, *Paganiſm*; and if there be any other like them, as I think *Muggletoniſm*, and ſomewhat a kin to it.

The ſum then of what we have ſaid, is this, That ſome *Penal Laws* ought to ſtand againſt *Irreligion*, *Blaſphemy*, and ſuch *apparently ill Religions*, as theſe mentioned.

Again, If there be any *Sect of Chriſtian* Religion (*at large* ſo called) the *Fundamental* and *Characteriſtical Principle* of which *conſiſts* not with the *Security of Civil Government*; ſuch as I think, is the Doctrine eſſential to the Fifth-Monarchy-men, *of the Reign of King Jeſus, and his Saints alone*, which is alſo the Opinion of ſeveral of the *Anabaptiſts*, and was of many of the *Quakers* in the year 1660. and will be ſtruck for, whenever theſe Sects are powerful enough; and how deſperately, *Venner* with his forty men againſt the Train'dbands of the City, and His Majeſties Life-Guard, will be an eternal Inſtance. Such Sects ought not to be allowed the free Exerciſe of their Conſcience (for that, as before ſaid, is the propagating their Religion;) and therefore, againſt *theſe Sects*, *Penal Laws ought to ſtand*, at leaſt in ſome meaſure, for the reſtraint of their free Exerciſe of their Conſcience, as they will pretend, or call it: I mean for the reſtraint of their *aſſembling to hold forth*, and propagate theſe accurſed *deſtructive Doctrines*.

And now we are come to the Point that has long pinched, and perhaps ſtill does; Whether the *Religion* of *Thorow-papiſts* (as ſome diſtinguiſh them) that is of thoſe, who *hold the Popes full Supremacy over Princes*, even within their own Dominions, be any more *conſiſtent* with the Security of *Civil Government*, *generally taken*, (that is, let the Prince be of what Religion he ſhall) than that of the *Millenaries*, or of any other like ſort; and conſequently, whether Penal Laws ought not to ſtand againſt ſuch Papiſts or Catholicks, as they will call themſelves?

It ſeems to me, that thoſe of them who *think their Religion* well *conſiſtent* with Civil Government in general (be the Prince of whatſoever Chriſtian profeſſion he ſhall be, ſuppoſe a Proteſtant;) thoſe I ſay, ſhould *not be againſt*, or contend for the laying aſide, or not having an *Oath of Supremacy*, *as to Temporals* at leaſt; for whoſoever appears againſt ſuch an Oath, manifeſtly profeſſes thereby his Religion will not ſuffer him to be obedient even in Temporals, to that Governor, whoſe Supremacy in Temporals he avows he cannot, or which is the ſame, refuſes to acknowledg.

It is ſure, both the Body of the * *Canon Law* aſſerts, and ſome † *Popes* have *expreſly decreed the Supremacy of the Chair* of St. *Peter*, even in *Temporals*, to be of *Divine right* and *matter of Faith*; ſo as that *to believe the Contrary is Hereſy and damnable Sin*. And whatever ſome do believe or declare, (as I have heard ſome of them ſwear, that ſhould their Father Confeſſor, or the Pope himſelf, command them to take Arms againſt their King, they would not obey;) yet it is alſo ſure, that many *Roman* Catholicks, and perhaps more Orders of their Religious than one, do to this day ſo believe; and tho many of their Confeſſers may not preſs the Popes Supremacy in Temporals on the Conſciences of their Devotes, yet no doubt others, except they are forſworn, do it.

* Diſtinct. 22. c. Omnes ſive. Ubi etiam vide gloſſam. Et Diſt. 96. Duo ſunt. Et 1. Qu. 4. Quia Prælatus.

† Nicolaus, Gelaſius, Leo IV. ubi ſupra, aliique.

V. Qu. 6. c. is item. Et Nos Sanrum. Et c. tos milites Gelasius, harias, gor. VII. anus II. s proximè citatis, li.

Further, the said * *Canon Law* allows the Pope may *Absolve Subjects and Soldiers* from their *Oath of Allegiance*, and *Duty* to their *Kings* or *Commanders*; and several † *Popes* have decreed as much, otherwise it could not have come into the Body of the Canon Law; nay, they have actually done it. Wherefore it would seem, tho not for Religions sake in general, yet *for the sake of Civil Government, Penal Laws ought to stand against such a strain of Religion* also; at least, against the free Exercise of it. Whether this will conclude *Jesuits*, and those whom some call *Jesuited Papists*, themselves best know; I will not now insist on their *fourth Vow*.

The Result of all is, that an *absolute Repeal of all Penal Laws* in the case of *Religion*, or even of such Penal Laws which affect either *Catholicks*, or *pretended Protestant Dissenters*, taking Catholicks and Dissenters for all that call themselves so, is *not safe for the Government, nor agreeable to Christian Conscience*; but a *Qualification of such Laws*, or some *explanatory and mitigative Act*, which might *secure all peaceable conscientious* men of *whatsoever Perswasion* (those Antichristian and Turbulent ones before mentioned, being excepted) in their *Estates, Lives and Liberties*, while they *Worship God according to their Conscience*, were *to be desired*, and is to be *endeavoured* by all who would approve themselves genuinely *Christians*. And I am not without hopes, that those who declare themselves so much for the Repeal of the Penal Laws, will acknowledg this to be their Sense.

But as I have hitherto endeavoured to be *in general*, just both to the *King, Religion, and all Parties* concern'd in my impartial considering and stating the case of all, in reference to the Liberty desired; So I must be yet more *in particular* just to those who are in *Possession* of an *Establishment* by Virtue of the Laws; and consider while they concede so much, what is fit to be conceded and assured to them by the indulged Parties.

First then, Seeing it is *expected* of the *Church of England*, that she *consent* to the *Repealing* all such Penal Laws which affect the Estates, Lives or Liberties of such *Roman* Catholicks and Dissenters as before specified; therefore it must needs be judged but *fit* and *equal*, that the *Church of* Rome *revoke* all *such Laws*, which alike affect all *peaceable Protestants*. Those who pretend that Church has none such, may be excused if they speak it out of Ignorance; but they are unpardonable who go about to impose so impudent a falshood upon the World. The *Church of Rome* has for many Ages not only had *Sanguinary* and *Penal Laws*; but also *bound*, and daily does bind *by the most sacred Oaths*, and under the severest Penalties, most of her Sons, Sacred as well as Secular, to the *Execution* of such Laws, to their utmost Power; Behold some of those Laws, and the legal Method to be proceeded in against all, who own not the Faith of the Church of *Rome*.

'We Excommunicate and Anathematize every Heresy which sets up it self against 'this * holy Faith which we have above expounded, condemning all and singular 'Hereticks, by what Names soever they are reckoned, having indeed their Faces dif- 'ferent ways, but their Tails tied together, because as to matter of falshood they 'agree in the same thing.

* Of which Faith, as appears by the first Canon of the *Lateran Council*, out of whose Decree this Chapter is transcribed into the Body of the Canon Law (the Chapter being indeed the third Canon of the said *Lateran* Council under *Innocent* III.) of which Faith, I say, two Points amongst others were *Transubstantiation*, and *that there is no Salvation out of the* Roman *Church*.

'And being thus condemned, let them be left to the present Secular Power, and to 'their Bailiffs to be punished ‖ with due Severity or Execution; Clergy-men being 'first degraded from their Orders, so that the Goods of such condemned Persons, if

Animadvertone debita.

 they

'they be Lay-men, be confiscate; but if Clergy-men, be applied to the Churches whence they received Stipends.

'And as to those who shall be found * challengeable only by Suspicion, except ac- * Solâ
'cording to the nature of the Suspicion, and quality of the Person, they shall clear their one no
'Innocency by a proportionable purgation, let them also be struck with the Sword
'of Excommunication [or, of an *Anathema*] and let them be avoided by all Persons
'till they give condign Satisfaction: So that if they continue excommunicate one whole
'year, they be from thenceforth condemned as Hereticks.

'Further, Let the *Secular Powers* of *whatsoever degree* be *admonished* and *induced*,
'and if need be, *compelled* by *Ecclesiastical Censures*, that even as they desire to be re-
'puted and accounted faithful, so they take publickly an Oath for the defence of the
'Faith, that they will endeavour † faithfully [or in good earnest] according to their ‡ Bona
'power, to *exterminate out of the Lands of their Jurisdiction* all such as are pronounced
'*Hereticks* by the Church: So that from henceforth, *whensoever any one shall be assu-*
'*med into Power Spiritual or Temporal*, he be *bound firmly to swear to this Article*.

'And in case any *Temporal Lord*, being required and admonished by the Church,
'*shall neglect* to purge his Countrey from Heretical Pravity, let him be by the Metro-
'politan and Comprovincial Bishop *innodated* in the bond of *Excommunication*. And if
'he shall neglect to satisfy within a year, let them signify the same to the Pope, that
'he, from that time forth, may *pronounce his Subjects absolved* from their *Allegiance*,
'and may * *set forth his Country* to be *seized by Catholicks*, who, having exterminated * Terra
'the Hereticks thence, may possess it without contradiction, and keep it in the purity ponat C
'of the Faith, with a saving to the right of the principal Lord: provided *he have put* licis occ
'*no obstacle* in this matter, nor given *any other hindrance*: The same Law nevertheless dam.
'being observed as to them who have no Principal Lords.

'Further, Let all Catholicks, who, having taken upon them the badge of the Cross,
'shall have applied themselves to the exterminating Hereticks, injoy the same Indul-
'gence, and be possessed of the same Privileges as have been granted to them who
'went to succour the Holy Land.

'Moreover we decree, That all *Adherers*, *Receivers*, *Defenders and Cherishers of He-*
'*reticks* lie under the *same Excommunication*; firmly ordaining, that after any such
'*Excommunicate Person* shall have, one whole year, neglected to make satisfaction, he
'from that time become *in Law infamous*, and be not *admitted to any publick Office*,
'*Councils*, nor to *chuse any others*, nor so much as to *give his Testimony* in any Case;
'that he also be *intestable* [or have no liberty or power to make a Will] nor be allow- None of o
'ed to *come in succession* to any *Inheritance*. Furthermore, that *none be compelled to an-* late Tests
'*swer him* in any *Suit* or Business, but that *he be compelled to answer all* others. And in match the
'case perchance he should *formerly* have been a *Judge*, his *Sentence shall have no strength*, verity of t
'nor shall any *Causes* be brought to his *Audience*. Or if he were an *Advocate*, his *Plead-* Law.
'*ing* shall be *no-wise admitted*. If a Publick *Notary*, *all Instruments* made by him shall
'be of *no force*, but *damn'd with their Author*: The same also we command to be ob-
'served in like cases. If he be a *Clergy-man*, let him be *deposed* from all *Office and Benefice*.
'And if any shall not forbear to avoid such Persons, after they have been pronounced
'Excommunicate by the Church, let them also by Excommunication be compelled to
'fit satisfaction. Further, let *no Clerk administer the Church Sacraments to such Pestilent*
'*Persons*; let them not presume to give them *Christian Burial*, nor let them partake of
'any *Alms or Oblations*: or in case they shall, let them [that is, such Clerks so offend-
'ing] be deprived of their Office; to which let them never be restored, without a spe-
'cial Indulgence from the Apostolical See. In like manner, let all *Regulars* observe so

'to

'to do: upon whom, otherwiſe, let this Penalty reſt, that their Privileges be void 'within that Dioceſe wherein they have preſumed to commit ſuch Exceſſes.

Thus far the *Lateran Council* (under Pope *Innocent the Third*, *An. Dom.* 1215.) tranſ-
. De ſcribed into the † body of the Canon Law; which, with the Church of *Rome*, is above
sCap. all other [at leaſt Humane] Laws, and it were to be wiſhed, that it were not too
nuni- often obſerved above God's Law alſo.
aque,

But though the Council ſtopt here; after another ſhort Chapter the Decretals go on
tcom- again thus under *Gregory* IX. '* We Excommunicate and Anathematize all Here-
nus, 'ticks, the *Cathari* [or Puritans] the *Patarens*, the Poor of *Lions* [and others there 'mentioned, now perhaps unknown] and all others, by whatſoever names they are 'reckoned, having Faces looking different ways, *&c. as before.*

'Being thus condemned, let them be left to the Secular Judgment to be puniſhed 'with due ſeverity, *&c. as before.*

'But if any of the aforementioned Heretics, after they are convicted, will not re- 'turn to perform condign Penance, let them be kept *in perpetual impriſonment.* And 'as to them who adhere to their Errors, we adjudge them alike Heretics.

olutos The next Chapter is ſhort, but Subſtantial. 'Let them know that they are abſolved
int. 'from all Debt of Fidelity, Dominion, or Obedience, whoſoever were bound by any 'Compact, howſoever ſtrong, to any Perſons fallen into Hereſie.

More of like nature might be eaſily collected out of the body of the Canon-Law. Now that by *Heretics* thoſe Laws do *not underſtand* meerly *Manichees*, *Valentinians*, *Arrians*, or ſome ſuch groſs People, but univerſally *all ſuch who ſubmit not to the* Roman *Faith*, or even to the *Supremacy of the* Roman *Biſhop*, is, beſides what was above noted, plain from another Text of the ſaid Canon Law. 'He [that is Chriſt alone] hath founded
:XXII 'this [the *Roman*] Church upon a Rock, who committed to bleſſed *Peter*, the Keeper 'of the Keys of Eternal Life, the Rights both of the Earthly and Heavenly Empire— 'So that whoſoever endeavours to take away from the *Roman* Church the Privilege 'given her by the Supreme Head of all Churches, ſuch Perſon without doubt is fallen 'into Hereſie; and whereas others [who violate the Privileges of other Churches] 'are to be called unjuſt, ſuch Perſon is to be ſtiled an Heretic.

As to *matter of fact*, how theſe Laws have been Executed, and in ſome Countries how they ſtill are, is diſagreeable to my Deſign of publick accord to inſiſt: only be-
Cænæ. cauſe we are conſidering of terms of accord, I muſt not wave that point of matter of fact, that *all Proteſtants are excommunicated afreſh* by the *Pope every Maundy Thurſday*,
Pontifi- and that every Prelate, which is conſecrated, at his Conſecration, amongſt other
oman. things, ſevere enough againſt us, ſwears in theſe words, *Hereticos, Schiſmaticos & Rebelles eidem Domino noſtro vel Succeſſoribus prædictis, pro poſſe, perſequar & impugnabo.* That is, 'I will, according to my power, perſecute and impugn all Hereticks, Schiſ- 'maticks, or thoſe who rebel againſt our Lord [the Pope] and his Succeſſors aforeſaid.

I will not here meddle with the Doctrine of many *Caſuiſts*, who tell us ordinarily, that all Heretics being *de jure* Excommunicate, any Catholic may ſafely kill them; Nor that in all Catholic Kingdoms *de Conſuetudine*, Burning alive is the proper Legal Death for Heretics: for which laſt, it were to be wiſht, there were not yet Statute-Laws in force, in ſome of his Majeſty's Dominions. I rub not, I ſay, on theſe Sores, but content my ſelf to have mentioned the general Penal Laws above recited, which are ſufficient to prove the *Romaniſts* have ſuch Laws.

And *theſe* being the *Laws*, and *ſuch* the preſent *obligation* generally to *all Catholics in power* (whether Eccleſiaſtical or Secular) to obſerve them, it is reaſonable, that *before Penal Laws* againſt all men of *this Religion* be *Repealed*, *they of the Religion* obtain

from

from his Holineſs ſome *Repeal* of *theſe and the like Laws*; at leaſt a *Bull*, *exempting all the Proteſtants of* England, Scotland *and* Ireland, from being comprehended in the number of ſuch *Heretics*, who are thus to ſuffer; and together *abſolving* all Perſons, who have taken *Oaths* for *Exterminating Heretics*, from any obligation to perform thoſe Oaths as to the Proteſtants of theſe Countries; For till then, we have juſt ſo much Reaſon to hope for ſecurity from ſuch Catholics, as we have aſſurance that they will ever forſwear themſelves, or all their days live in wilful Perjury.

There is *another Law* amongſt the *Roman* Catholics, which tho not Penal to us, it is to be feared may be one day moſt dreadfully Penal to as many of them as obſerve it, and which ſeems to oblige them to perſecute us: I will call it the *Law of uncharitableneſs*, the revoking of which alſo, it ſeems fit, ſhould be made a condition of Repealing our Penal Laws: The Law I mean is that, whereby every one, who will be of that Church, is required to ſwear to the *Tridentine* Creed, in the cloſe of which Oath he avows, *No one can be ſaved out of the belief of that the preſent* Roman *Catholic Faith*. By this they plainly damn four fifth parts of all Chriſtendom. I know there are ſome Gentlemen of that Communion, who are more merciful to us, and the better Catholicks are they for it; God bleſs them, and encreaſe the number of them: But I as well know, there are others ſo ſtiffly hold to this, that they frequently, and even in their ordinary converſation, as well as in their writings, uſe it as an Argument to perſwade men of our Church to come over to their Religion. As to theſe, I crave leave to ſay only this one thing, That men can repoſe very little confidence in their kindneſs, who prejudging to God's judgment, have already damn'd them beforehand: Wherefore I conceive they who would have any kind offices paſs between us and our *Roman* Catholic Countreymen, or intend we ſhould live together as Chriſtians, ought to abandon this rigour, and if poſſible to procure from the Head of their Church an abatement of it, as to the Proteſtants of theſe Countries at leaſtwiſe.

This will appear yet the more reaſonable, if we conſider of *what Communion* they were that firſt *introduced* into theſe parts of the World *Penal or Sanguinary Laws* in cauſe of Religion. The *Proteſtants* in this matter can only be blamed for *following an ill Example*, which alſo they have induſtriouſly not come up to. They found Sanguinary Laws; and the ſevereſt of them, in *England*, they have repealed: If any other than thoſe Penal-Laws were made, (as it is not to be denied there were) it was rather upon the ſcore of the *State*, than of *Religion*. A *Sanguinary Law* made particularly *againſt any ſort of our Non-Conformiſts*, I never yet knew any: Nor againſt thoſe of *Rome purely* for *Conſcience* ſake. But the Laws above mentioned out of the *Roman* Canon-Law are Purely upon the ſcore of Conſcience; and even where they extend not to Blood, they are, as we ſee, much ſeverer than any of our Laws or Teſts againſt them. In a word, all perſons who will be juſt, muſt allow to others the Liberty and Security that they deſire ſhould be granted to themſelves, which is the *Height* of this our *firſt demand*. *Ipræ, ſequar*: Let thoſe who were firſt in the guilt, firſt amend; certainly Proteſtants will meet them in kindneſs.

Secondly, Inaſmuch as they of the *Eſtabliſht Church* do not in the leaſt *ſuſpect the truth of their Religion* (all the Writings of their *Roman* Adverſaries diſcovering their *Roman* Faith, where differing from the Proteſtants, inſtead of a Rock, to be built only on Air) and inaſmuch as it cannot be juſtly expected, that meerly to gratify our Adverſaries, we ſhould at once *betray* both *our Religion* and *our Intereſt*; it is but *juſt*, that *together* with ſuch *Statute* as ſhall *take away the Penal Laws* in Conteſt, there paſs another for *ſecurity of the National Religion*, that it ſhall not be *altered*; and of the *regular conformable Clergy* and *their Succeſſors*, that their *Rights* ſhall not be *invaded*. It is told us indeed, we have His *Majeſties Royal word* many times *repeated*. I humbly return,

that

that I know no *true Church-of*-England-*Man* who does not *rely* upon His Majesties Word, during his Reign (which God long continue) for the security of our Church. But *Succession is a long Train*; and *Laws*, if standing, may keep *posterity in peace*, when *Promises* with their *Authors* are *faln asleep*. He is not just to the present Age, who is not to his power just to Posterity, however remote. It is therefore reasonable, fit and necessary that such a Statute, as is desired, pass.

As to what you conclude with, That the *Clergy of the Church of* England are very *ungrateful* to His Majesty for his repeated Promises of Protection, and together *uncivil* to him, in not *fully acquiescing* in his Royal word so often given for the security of their Religion, Rights and Privileges; and *not offering to concur*, according to his desire, in the Repeal of the Penal Laws: I take the liberty to *aver*, that I know not *one Clergy-man* of that Church who has not *solemnly under his hand given* His Majesty *thanks* for those Promises. All the *Addresses* we made in the year of His Majesties accession to the Crown, were so many *humble Testimonies of our Gratitude*, and *Zealous Vows of our Loyalty*; and if *Addresses of meer Thanks, and Vows of Loyalty* would be accepted, there is not an English Bishop, Priest, or Parish in the Three Kingdoms, I believe, but would present them most gladly. But who sees not the *Declaration*, for which 'tis expected we return Thanks, consists of *more parts* than that *private Subjects* can *justify* their approbation of the whole? And as to the sacred Veneration we have for His Majesties word, I have spoken already.

Give me leave for a Conclusion to tell you a *new* and very *true Story*. A Friend and Neighbour of mine, being very intimate with an eminent person of a certain Religious Order, and knowing well the Principles of that Order, asked him in a good hour, what they meant by this furious driving on an Universal and Unlimited Toleration? The answer he received was, that they were now *Scaffolding*. My Friend understanding him not, desired he would explain himself; but could get no more out of him than this, that they were *yet but Scaffolding*. After further importunity for a more explicit resolution, the good Religious person answered, he would not tell him more; but bid him go to such a person (a Master-Bricklayer, or Mason, be-like) and ask him what *Scaffolding* was? He went to the Man assigned, and received this Answer, *Scaffolding* is *setting up Poles*, and *Boards*, and such *rough stuff*, which *serve* us to *build*, and when we have built, we *throw them aside*.

The Story I avow to be true, and leave the application of it to all those parties whom it concerns; very well remembring, that *Scaffolds* are *ordinarily made* for *more uses than one*: However according to the Interpretation given, the Toleration now promoted seems not by its Agitators designed to stand long.

But to make an end: On what terms, I conceive the Penal-Laws in question may be Repealed with justice to the present and succeeding Ages, you may easily collect out of this long and hasty scribble; and so you have my *Free Thoughts* in this so hotly agitated Question. God preserve the King, and grant we may live to see the days, wherein *all Laws Penal* to *Peaceable*, *Conscientious* men, and together all *uncharitable Laws*, on *all sides*, may be for ever abrogated.

I am your Humble Servant

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